

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

STEPHANIE BAIYASI,

Plaintiff,

Case No. 1:11-cv-13094-TLL-CEB

v

HON. THOMAS L. LUDINGTON

DELTA COLLEGE and DAVID
BAILEY, in his individual and official
capacity, Jointly and Severally,

Defendants.

VICTOR J. MASTROMARCO, JR. (P-34564)
MANDA L. DANIELESKI (P-62597)
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CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.
By: **EILEEN K. HUSBAND** (P-38059)
33900 Schoolcraft
Livonia, Michigan 48150
(734) 261-2400
Attorneys for Defendants

DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE
TO ORDER TO SHOW CAUSE

NOW COME Defendants, by and through their attorneys, Cummings, McClorey,
Davis & Acho, P.L.C., by Eileen K. Husband, and for their Reply to Plaintiff's Response to
Order to Show Cause, hereby state as follows:

1. On May 10, 2012, the Court entered an Order granting in part and denying in part Defendants' Motion to Dismiss under Fed. R. Civ. P. 12(b)(6). Part of the Order dismissed Count I of Plaintiff's First Amended Complaint which alleged violations of Plaintiff's First and Fourteenth Amendment rights under 42 USC §1983. The Court relied on Delta College's Senate Handbook Policy 3.010 (Exhibit D) to Plaintiff's Complaint in dismissing Count I.

2. Subsequent to the entry of the Order, Defense counsel learned and disclosed to Plaintiff's counsel that the Delta College Senate Handbook Policy 3.010, Paragraphs 10 and 12 (Exhibit D to Plaintiff's Complaint) ("Senate Policy"), had been overridden and rendered void by the College's Bylaws effective October 20, 2009.

3. On October 20, 2009, the College's Board of Trustees amended the College's By Laws delegating the Board's authority to make personal decisions to the College President.

4. The President's decisions however continue to be subject to review and challenge through the Senate Grievance Procedure, per Paragraph 13 of Senate Policy 3.010 which remains in effect.

5. Alternatively, the President's decisions continue to be subject to review and challenge through the Complaint and Grievance Procedures with the College's Equity Office.

6. The Defendants are willing to stipulate to an order vacating the Court's Opinion and Order Dismissing Count I and reinstating Count I in order to correct the record with regard to the status of Senate Policy 3.010. However, Defendants do not stipulate to

waive any defenses or arguments previously asserted, so that it may address those arguments in full on a new motion.

7. Defendants agree that the parties have been working diligently to resolve this issue, and join in a request for a Conference call with the Court to address this issue and a new Case Management Order.

WHEREFORE, Defendants respectfully request a Conference call to address the issues raised herein.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

By: /s/Eileen K. Husband

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P-38059
Attorneys for Defendants

Dated: August 31, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Victor Mastromarco

s/Eileen K. Husband
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